

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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FILED

JAN 06 2005

**INDIANA UTILITY
REGULATORY COMMISSION
CAUSE NO. 42000**

IN THE MATTER OF THE APPEAL)
OF THE CONSUMER AFFAIRS)
DIVISION'S DISPOSITION OF THE)
INFORMAL COMPLAINT OF LEADER)
IN NEW COMMUNICATIONS, L.P.)
AGAINST SBC INDIANA, F/K/A)
AMERITECH INDIANA)

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") caused the following entry to be made in this Cause:

On December 22, 2004, Indiana Bell Telephone Company, Inc., ("SBC Indiana" or "SBC") filed a *Notice of Errata* ("Notice of Errata") regarding the direct testimony filed by William Walter Johnson on October 15, 2004. According to SBC Indiana, the Notice of Errata was necessary to correct certain typographical and data entry errors contained in Mr. Johnson's testimony.

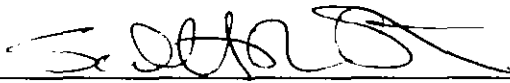
On December 24, 2004, Petitioner, Leader in New Communications, L.P. ("LINC") filed a *Motion to Strike SBC Indiana's Notice of Errata* ("Motion to Strike"). In its Motion to Strike, LINC indicates that SBC's Notice of Errata is an inappropriate attempt to reply to the criticisms of SBC's testimony contained in LINC's Rebuttal Testimony filed on December 14, 2004, as the errors SBC purports to correct go to the heart of this dispute, which is SBC Indiana's inability to accurately track and credit LINC's payments. Motion to Strike at 1. LINC further indicates that if the Commission denies the Motion to Strike, that it believes it should have an opportunity to file surrebuttal testimony to address issues presented in the Notice of Errata.

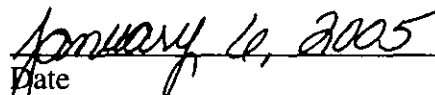
On December 28, 2004, SBC Indiana filed a Reply ("Reply") to the Motion to Strike. In its Reply SBC indicates that the corrections described in the Notice of Errata are merely typographical corrections or simple mistakes in input and are minor. SBC goes on to indicate that the substantive portions of SBC Indiana's testimony remain unchanged and to grant LINC's Motion would place SBC Indiana's witness in the untenable position of being required to affirm facts that he knows are not true. SBC further states that each witness is required at hearing to affirm the truth of their testimony, including exhibits. Errors do occur. It is common practice at the Commission to correct errors in prefiled testimony before the witness adopts the testimony at hearing and the Commission's Prehearing Conference Order in this matter requires that corrections be made in writing as soon as possible after discovery of the need to make such corrections. SBC concludes that it would be hard to conceive of how these minor corrections, in the context of all the data before the Commission, would create a need to file further testimony in these proceedings.

The Presiding Administrative Law Judge has reviewed each of the pending motions and reminds the parties that this is an appeal from the Commission's Consumer Affairs Division. While the additional prefiled testimony presented in this matter is perhaps useful as a means to supplement the record, of central importance to our consideration of an appeal of an informal complaint taken from the Consumer Affairs Division is a careful review of the record prepared by this division that forms the basis of their decision.

In their Motion to Strike, LINC indicates that the errors SBC purports to correct go to the heart of this dispute--which is SBC Indiana's inability to accurately track and credit LINC's payments. If this is correct it is not necessary to grant the Motion to Strike, or LINC's alternative request to file surrebuttal testimony, as this would merely prolong our consideration of the very issues that were considered and resolved by the Consumer Affairs Division in its resolution of the informal complaint. As the focus of our consideration of the issues presented in this matter is the record prepared, and decision reached, by the Consumer Affairs Division we hereby find that additional testimony in the form of a response to the Notice of Errata is not necessary, and that corrections set forth in the Notice of Errata appear to be made in accordance with requirements set forth in the Commission's Prehearing Conference Order. Therefore, the Motion to Strike is hereby DENIED.¹

IT IS SO ORDERED.



Scott R. Storms, Chief Administrative Law Judge


Date

1. In ruling on the Motion to Strike the Presiding Officers note that the Parties have not stipulated to the record prepared by the Consumer Affairs Division in this proceeding. Therefore, the Presiding Officer's hereby notify the parties that the Commission is taking administrative notice of the record prepared by the Consumer Affairs Division, pursuant to 170 IAC 1-1.1-21.